IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7953 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VANVASI SEWA PARISHAD - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MRS VASAVDATTA BHATT for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 19/01/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner – trust has prayed for appropriate writ, direction and/or order directing the respondent authority to release maintenance and establishment grant payable to the various Educational

Institutions run by the petitioner-trust without insisting on recovery of the various amounts demanded from the petitioner on the basis of alleged audit report.

It appears from the record that during the pendency of the present Special Civil Application, the respondents released certain grants of Rs.5,54,000/- for ten institutions and the question which was required to be considered with regard to remaining unpaid grant. It appears from the record that on the basis of the audit report and on the ground that the petitioner-trust in various educational institutions have employed untrained teachers, 5% of grant came to be deducted. It is the contention of the petitioner that as the various institutions run by the petitioner-trust are situated in the interior of village and in Adivasi area, the trained teachers were not available and therefore the petitioner trust has employed untrained teachers. It is required to be noted that it is open for the petitioner to employ untrained teachers if the trained teachers are not available subject to prior permission and on fulfilling the condition that within five years those untrained teachers must get themselves equipped and become trained teachers. However, it appears that such prior permission was not obtained. As such considering the explanation on behalf of the petitioner-trust that trained teachers were

not available and therefore, they were constrained to appoint untrained teachers and considering the said difficulty, the authority has only withheld 5% grant, otherwise the recognition of the institutions would have been cancelled. Considering the aforesaid fact even the authority has taken a liberal view of deducting only 5% of the grant which in the facts and circumstances of the case cannot be said to be unreasonable and/or arbitrary.

Under the facts and circumstances, there is no substance in the present Special Civil Application and is required to be dismissed and is accordingly dismissed. Rule discharged.

(M.R.SHAH,J.)

shekhar/-